



**CITY OF RIVERSIDE  
COMMUNITY POLICE REVIEW COMMISSION**

**REGULAR MEETING  
MINUTES  
for  
November 26, 2001  
Art Pick Council Chamber  
3900 Main Street, Riverside, CA**

Present: Commissioners Brewer, Egson, Floyd, Garcia, Gardner, Howe, and Huerta

Absent: Commissioners Hendrick and Goldware

Chairperson Howe called the meeting to order at 6:04 p.m. and led in the Pledge of Allegiance.

Motion was made by Commissioner Brewer and seconded by Commissioner Gardner to approve the minutes for the October 2001 monthly meeting. The motion passed with three commissioners abstaining because of absence. Motion was made by Commissioner Brewer and seconded by Commissioner Gardner to approve the minutes of the November 13, 2001 case review meeting. This motion passed unanimously.

**CHAIRPERSON HOWE** - Executive Director's report and comments... Mr. Williams...

**EXEC. DIR. WILLIAMS** – Thank you very much. I just wanted to bring a few things to the Commission's attention. First of all, as you know, there were a number of promotions in the police department last week, maybe two weeks ago now. One of those was Jay Theuer, who was promoted from sergeant to lieutenant and he was the president of the POA. So he is now...because he got promoted he is no longer on the board of directors of the POA. I guess it promoted him out of it in their structure, so they've got a number of...they have an interim president, I think, until January when they're having new elections, sometime between now and then and they get a new slate of officers and this type of thing. You know, the dialogue that Jay and I have had, had been a real nice dialogue and we've not always agreed on things, but it was certainly a nice...you know, we got along with one another and were able to talk to one another and talk through issues and this type of thing, so it was a real change and I feel confident that whoever's elected president will...he'll do the same, as he would with anybody.

The second is a reminder, basically, that the December meeting if...we're changing that because of the Christmas holidays and so it'll be on December 17<sup>th</sup>, which I believe is a Monday morning, or Monday evening, I'm sorry, Monday evening, December 17<sup>th</sup>, and because of that, unless there's any objection, we won't have a case review meeting in December, we'll just have that one. We have, we just got in four cases to be reviewed and by the time we get them out and everything, the earliest we could possibly have a meeting would be the week before the 17<sup>th</sup>, and so I don't see a time rush, so unless somebody has a real objection, we'll just have one meeting in December and that will be the regular meeting. We'll have that on the 17<sup>th</sup>.

**CHAIRPERSON HOWE** – Let's keep that open just in case we get a number of cases in and might require to have a meeting before the regular meeting. But we'll go ahead and plan on December 17<sup>th</sup> as the regular meeting.

**EXEC. DIR. WILLIAMS** – Yeah. The 17<sup>th</sup> is the one we've got. We've got the council chambers all reserved and we talked about this last month, but this is just as a reminder, and of course, we'll go through the same...the notification process like we normally do, and on like that.

Another thing...I got a message today also, just a general note, is Councilmember Adkison had...has a proposal to sort of revamp the committee and board structure in the City of Riverside. There's...real briefly, his proposal would have every board and commission be composed of seven members except for this commission and the Human Relations Commission and they would maintain...us our nine and the Human Relations would be whatever it is now, 15, 17, whatever it is. With regard to our commission, his suggestion is that the commissioners would...each councilmember would have a commissioner representing his or her ward and that the Mayor would pick two for citywide. So I don't know if that's...how far that's going to float or anything, but that's... They're having a Governmental Affairs meeting the first part of December and that's what they're going to talk about then. So that's just a side-note, sort of FYI.

And that's all. I hope everyone had a good Thanksgiving.

**CHAIRPERSON HOWE** – Okay. Thank you. This time, we'll have comments from the commissioners. A commissioner with a comment? I have comment, question, to ask our Executive Director, and since the Internal Affairs people are here, when are we going, or how close are we at of receiving that case from Internal Affairs?

**EXEC. DIR. WILLIAMS** – That shooting case? I have no idea. We'll have to ask them. Maybe they can give us an idea, but I don't know. I suspect any day now, but I just don't know.

**CHAIRPERSON HOWE** – This is the time for public comments. This is an opportunity...

**EXEC. DIR. WILLIAMS** – Commissioners comments first, I believe.

**CHAIRPERSON HOWE** – What?

**EXEC. DIR. WILLIAMS** – Commissioners comments...

**CHAIRPERSON HOWE** – I already asked for them. This is an opportunity for members of the public to address the Commission on any subject matter that is within the Commission's jurisdiction, but is not an item on today's agenda. Each speaker should complete and submit a "Request to Speak" form to the Administrative Clerk. And you'll also have five minutes to address the Commission.

Okay, we'll call up Mr. Art Garcia.

**Art Garcia**

Thank you. Mr. Chairman. Good evening, commissioners, Mr. Williams, Ms. Sherron. My comments are in regard to two weeks ago, approximately two weeks ago, a week and a half ago, Mr. Williams and Vice-Chair Brewer attended one of my commission meetings, the Riverside County Community Action Commission, which is the anti-poverty agency for Riverside County. And I want to thank, on behalf of the commission and the executive director, Lois Carson, I want to thank the gentlemen for their attendance at our commission meeting, which was held in Corona. Incidentally, we normally hold it in Banning every month, but towards the end of the year, we move it to the west end so you two were fortunate that the timing was good.

Don did an outstanding job. I think he spent the better part of a half hour explaining what this Commission's all about and did a stellar job in doing so. There was a lot of interest from the commissioners, especially those at the east end. It comes to mind that Ron Oden, who is the mayor pro-tem of Palm Springs, represents his city on this commission, and he expressed great concern, not concern, but interest, excuse me, great interest, in your Commission's work and was looking to implement a similar commission in Palm Springs. Other commissioners were also very interested in your work and the reason I invited you to attend the commission meeting was for public outreach. And basically it's to make the poor folks of Riverside County, the residents of Riverside County, not afraid to come forward with any complaints. And what we do – it's a 15-member commission – and we represent the community-based organizations, spread the word as to what's going on in terms of the situation with poverty and community relations. And I think your information was very well received and I just want to take this opportunity to express my thanks on behalf of the commission.

**CHAIRPERSON HOWE** – Thank you, Mr. Garcia. The next speaker is Mary Shelton.

**Mary Shelton**

Hello. I had a question on Item No. 8, but I don't know if I can stay that long, and it has to do with the policy recommendation. And I might be splitting hairs here, but I'm not exactly sure what the definition of a harmless error is in terms of deciding whether or not sustain on a complaint or whether or not to provide any sort of discipline on a complaint because I was a witness on an internal affairs complaint the summer of 1999 and they did sustain on one finding and according to the officer who the complaint was sustained against, she received no discipline for it. That's what she told the media and I was not, I mean, I was under the impression that there would some kind of discipline allotted to someone who had received a sustained complaint and I'm kind of concerned...I mean, I'm sure there are some errors that are harmless, but I don't understand the point of having a complaint process if you sustain on a complaint and there's not some sort of consequence in order to not only serve as a consequence, but also as a learning experience so that the lesson that...of the behavior that needs to be changed hits home a little harder and so that the behavior is changed. Because I'm sure police officers, like anyone else, are different. Some of them are more easily motivated by the need to change their behavior than others and I'm just concerned about what a harmless error is. I hope I wouldn't see anything like...any type of discourteousness fall under a harmless error because I consider discourteous behavior to be the foundation of every...every complaint, even those that are more serious. So, when you discuss this policy, if there could be some sort of clarification on what a harmless error is and what a harmless error isn't, then I think that would be very helpful. Thank you.

**CHAIRPERSON HOWE** – I'd like to reply to that, Ms. Shelton. In this particular instance, it had to do with an incorrect date in a report, which was a harmless error. But anything that would be effecting behavior, of course the Police Department would have to take action on anything in that respect.

Okay, no other speakers, so we'll move on to Item 6 on the agenda, Training Session, Riverside Police Department to give presentation on officer-involved shootings.

**EXEC. DIR. WILLIAMS** – Yeah, Mr. Chairman, it I could...we have Lt. Collopy here, who's going to explain...what we thought we'd do is...as you're aware, we've not received the Phaisouphanh shooting case yet, and so I thought it would be a good opportunity for Lt. Collopy and whoever to come out and sort of explain what the process is, what goes into an OIS and, you know, the different entities and who does what and this type of thing, and this is not specific to that case. This is really a generic...you know, happen with any case and all, and so I thought that would be a good background. It's a good time to get it and just so he can explain to us all that is involved with this thing and sort of educate all of us on this.

**CHAIRPERSON HOWE** – Okay, Jeff, go ahead.

**LT. COLLOPY** – Thank you very much. Good evening, everybody. What I'm going to cover is 4.8 of our Department policy. I think each of you have a copy of that in front of you, as well as being in your

Department manuals that you've been issued. I'm going to hit some of the highlights in that. I don't want to read the policy to you, because I'm sure you've either looked at it before or will in the future as you go through this process. We'd like to hit some of the key points, explain some of the things that we do and how they're done and why we do them and then feel free to ask me questions as we go along or at the end, whichever you think would be best.

I'd like to start off with the different roles of the different agencies that get involved with a Department OIS. The Investigations Bureau, which is General Investigations...let me back up a step. Part of the reason I am doing this is because I'm the I/A lieutenant, but a couple years ago, I was the lieutenant in General Investigations, so I was in charge of the managing of the criminal investigation of an officer-involved shooting. So I've been fortunate enough to wear both hats, so I can see it from both sides of the fence where I'm at now.

Investigations – the focus on all the criminal aspects of a shooting incident and then the Internal Affairs will follow it and review for training, procedural and different policies, whether adhered to or a violation. Criminal investigations always take precedent over internal investigations and they always have been that way and it stays that way because of the criminal aspects that, once in a while, may become involved in these things. In OIS's we do have a program in the Department, it's called the PEER support program, where officers volunteer their time. They receive specialized training in how to provide support and assistance to officers who are involved in not only OIS's, but actually any issues that may cause the officer distress. We always have these. We have a psychological team that's on contract to the city. They always respond out on OIS's, usually toward the tail-end of the process for that evening and they will be...sit down with the involved officer. It's confidential and then they help with the officer to deal with any issues that arise out of this traumatic incident. That can also carry on to the days following and even the weeks following, depending on the need of the officer. We always a press information officer respond out to the shooting, or an officer is designated with that type of experience to deal with any type of media coverage that results from this.

The City Attorney's Office here, they almost always respond out on officer-involved shootings. They come with the purpose of providing assistance and guidance on liability issues that could effect the City and the Department employee. So they're always on-site to assist us with legal advice, so they're readily available to us.

The District Attorney's Office – at the very onset they are notified. They have an on-call deputy D.A. that's trained in these type of incidents. That deputy district attorney and the D.A. investigator, which is their version of a police officer investigator for their agency, they respond out to the scene. And as you can see, they're involved in every aspect of this investigation. They're not shielded from any of the interviews, the crime scene. We'll walk them through it if they feel the need. They provide all legal issues that are criminal in nature. They help write search warrants, provide anything we need to know and they participate in the interviews. They think of a question that the investigator forgets to ask, they'll ask to be asked and they're usually in an adjoining room watching the interview. Once in a while they participate, but normally they're in the side room, watching and then will feed in questions, if necessary or if a legal aspect comes up, then they'll take a recess and they'll provide guidance for the criminal detectives.

The Riverside County Sheriff now also has the responsibility of the Coroner's Office. It's mandated by law that the Sheriff / Coroner inquire into and determine the cause, manner and circumstances of all violent, sudden deaths, which is known usually as the autopsy. They also have the Coroner's Review that's conducted for all officer-involved and in-custody deaths. As you get this case and go through it, you'll see reports from these different agencies and...which will help support what...the things that we're touching on tonight.

Now, for the Police Department. The way an OIS usually begins is once the incident does happen, the officer that's on scene has got a list of responsibilities that he has to do. First is first aid for any injured people. Request supervision, if they're not already on their way. Calls for whatever assistance that he needs. A very important thing is to preserve the crime scene, 'cause that is a...fall into that category. Our general rule – which a lot of people, neighbors, sometimes don't understand and try to explain, and

sometimes they accept it and sometimes they don't – is the general rule of law enforcement is you determine what your crime scene is and then you double it because there's always something that's outside that scene. You'll find shell casings or you'll find some type of evidence that's outside what you would originally think would be your crime scene and then maybe it get contaminated and then there's criticism involved. Of course, after those things, you're always looking to apprehend any offenders involved in the incident. When the supervisor gets on-scene, that officer's first responsibility is to, as quickly as possible, advise that sergeant what happened. The sergeant will ask officer safety issues, like how many times did you shoot, what direction were you pointing when you shot so we can account for any rounds that were fired so we know to go check the car across the street, the house across the street and make sure everybody's safe. And then, of course, the officer is going to, at the end, when he gets back to the office, either prepare an accurate and complete report of the incident or normally speaking, he is interviewed by the detectives and he verbalizes it. Then they transcribe it and put it on paper.

Now when the sergeant responds, of course he's tasked with several things, one, of course, is first aid is always the number one issue in pretty much all police cases. But it's now his responsibility to take charge of that scene, notify the watch commander, then he's to double-check to make sure a crime scene has been established, a perimeter has been set up and it's sealed off so people can't wander in, cars can't drive through, and evidence can't be contaminated or disappear. He asks those questions about which way the officer was pointing, how many rounds he fired, that type of thing, protects the evidence and he immediately needs to start checking, either himself or usually delegate to officers, locate any witnesses before they drive off, go back in their houses, or get in their cars and drive off and we lose them forever, never to be interviewed. He also is responsible for briefing the OIS team, which is the officer-involved team that responds out of General Investigations.

The watch commander, his job is...now he's obviously in charge of the whole thing. He has several notifications to make, which range from the employee's division commander, which is the captain, the chief is notified. PEER support will be called when it is appropriate. He'll make sure there's enough officers. Normally, what happens with shootings, we have X-numbers on patrols on that shift and when one of these things happens, crime scenes are initially...usually these things are chaotic. It usually takes several officers to respond, get control of what the situation is, set up a crime scene. Then you have to have officers to be able to protect that, so it's a major draw on the personnel that's on the street. So the watch commander's got to evaluate that, kick loose whoever's not needed. Often times, it means bringing in more people. If it's the middle of day shift, we'll call Watch 3, night shift officers, and have them come to work early. And so it's his job to decide what he needs and to make it happen. He also...there's a crime scene log that the officer that's assigned to do that has to monitor and have every person that walks into that crime scene is documented. That person's going to have to write a report as to why he was there, what he did, and what action he took, if anything.

General Investigations – they roll out the appropriate team, which is the shooting team. They also make sure that the division commander's been notified, city attorney, my office has been called, and then they have the priority of doing the criminal investigation for the whole thing. And then the administrative investigation is my office.

The purpose of the criminal investigation is to determine criminal liability on who and which part. Does the officer have any exposure to criminal liability, or did the person that was shot or shot at, what his involvement in the matter is. Determine if there are violations. Do we have federal or state law violations? FBI may elect to get involved. That's their decision whether they do it. It could be a federal civil rights action, which is their jurisdiction. If criminal conduct exists, then determine whose part; is it the suspects? Is it the officer's part? If it does exist, determine to what degree and get all the evidence to prove it one way or the other. What they do, as you can see, is just basically do a fair, complete, impartial, unbiased criminal investigation. 99.9% of all their interviews are tape-recorded. There may be the exception, but that's usually the case; an exception, that didn't happen. they will canvas the neighborhood, knock on doors, knock on every apartment complex door and get a "No, I didn't see anything" documented or "Here's what I saw," and pin down everybody to a statement at the time, 'cause that's usually your best statement, is the first one. And this is probably what the OIS does: photograph, collect all the evidence, interview everybody that they can find. they advise the involved employee of their rights. The D.A.'s there

for consultation and then the...at the end, within 24 hours, the sergeant in charge of the OIS team completes his synopsis, which you'll have an opportunity to read later, was submitted and that will be sent to the division commander and the Chief of Police within 24 hours, which is just the "Reader's Digest" version of what happened.

My office...what we do, is we respond to these things. We try to do as much as is allowed - a parallel investigation. However, as I mentioned earlier, the criminal investigation takes precedent. And what we do is we monitor everything that they do. We don't get involved in the interviews. We may suggest a couple things to be sure and ask them, "If you can, cover this area," so we don't have to go back in a few weeks and reinterview the officer. But we are there listening to the interviews. We sit in on all the briefings. We walk through the crime scene. From start to finish, we're involved in it. Then when our report is finished, it goes through the chain from the sergeant that does the investigation. I have to read it, approve it, then it's sent to Capt. Dana and then up to the Chief's office for his thing.

Some of the things that Internal Affairs looks for, and for that matter, criminal detectives look for it as well, to see if a crime's involved and to what extent, but, you know, drawing of weapons, was it necessary? Did he draw it prematurely? Was it reasonable for the officer to believe that the situation called for it? And then did the drawing of the weapon comply with Department policy? Did his actions follow them...the guidelines that we have set?

Tactics – we look at prior, during and after the incident; whether they were tactics that had been taught that the officer has received in the academy or in-service training. Are they acceptable to standard police guidelines? Why did he use this tactic, and/or did poor tactics cause this shooting to occur? And then, as far as use of force, was it necessary and reasonable? What was in the officer's mind at the time of the shooting? And case law has been established by the Supreme Court, that's what we need to look, when we do these investigations, is to look at what is reasonable in an officer's eyes at the time, not to be a "Monday morning quarterback." You have to look at it – what was reasonable for the officer at the time this occurred, looking through his eyes. And then, actually, that last thing is worded incorrectly, it should be "Did shooting the victim violate any Department policy?" The criminal detectives will determine whether there's a crime involved, but if it's not, then we look and see if the policy has been adhered to.

That is...oh, the OIS report, we also look, see if there's any conflicts, is it biased, detectives asking leading questions. Is it complete? Every question that you can dream of, has it been answered, if it's relevant? And then is the report complete enough to make a decision whether it was within or outside of policy? And then it's routed through me, through the captain, up to the Chief's office.

Some of the things that delay...I won't say delay. Some of the reasons that these investigations take so long is there's treated as a homicide. This is a...you'll see in the package that I give to you when you get this thing, "Definition of justifiable homicide," case law that pertains to officer-involved shootings. During the criminal investigations, there's numerous... usually there's numerous interviews to be done with officers involved, with witnesses. With an officer, they normally have an attorney that they call through the Police Officer Bill of Rights. Those officers are interviewed, tape-recorded, transcribed. They're gone over to make sure they're correct. If there's something that...more questions are needed, we'll bring them back in and the detectives reinterview them. There's evidence that DOJ analyzes for us, the lab. Ballistics are done. Blood samples are taken, voluntary blood samples are taken. Those need to be analyzed. And you'll see, when you get this, this is the same as a murder book. They're usually in 3-ring binders and there's usually multiple binders, depending on the complexity of the case, the number of binders that there are.

IA will parallel as much as we can, but we have to wait for the completed and finished criminal report 'cause we can't start our premise too early on a statement, only to find out later it's been changed and we're still operating on the initial statement because the detectives will dig up new clues or new witnesses and that. So shortly after we receive it then, we're full bore on it and complete it as quickly as we can.

I'm open to any questions...

**CHAIRPERSON HOWE** – Any commissioners have any questions for Lt. Collopy?

**COMMISSIONER FLOYD** – Could we get a copy of your presentation?

**LT. COLLOPY** – Yes.

**COMMISSIONER FLOYD** – I don't mean right this minute, but maybe in the next couple of...

**LT. COLLOPY** – I can probably give you mine and then Don can copies, if he wants.

**COMMISSIONER FLOYD** – Thank you.

**CHAIRPERSON HOWE** – Any others?

**COMMISSIONER GARCIA** – What is the estimated, approximate time that an OIS case takes?

**LT. COLLOPY** – Well, it varies with the case. The complexity kind of dictates that. The...I'd say on an average, it takes usually a few to several months to get it completed. This particular case that you'll...to answer that question, that is on my desk. I have read it and reviewed it and I just advised Capt. Dana about that today, so I anticipate he'll probably read tomorrow or the next day and then it'll be forwarded to the Chief's office. So how soon you'd get it...my guess would be within a couple weeks, but I don't know what the Chief's schedule is. But they are lengthy. I mean, there's no getting around that these are...if we do them too quick, we'll be criticized because we missed something, made a mistake, or we were rushed to judgment and that, so in fairness to everybody, when we send them out, we want it to be done, complete, and the right answers.

**CAPT. DANA** – Lt. Collopy's estimation of time would presume that I won't send it back for anything else to be done and that the Chief won't send it back.

**LT. COLLOPY** – Yeah.

**CHAIRPERSON HOWE** – That answered my earlier question.

**COMMISSIONER HUERTA** – Does your report have elements of other agency reports, like the Coroner's report or the D.A.'s recommendations or findings?

**LT. COLLOPY** – Yes. Yes. You'll have...that's one of the things we have to wait on. The Coroner's review report, for example, sometimes, I receive...we received that about two weeks ago...yeah, about two to three weeks ago. So, yeah, we have reports from Department of Justice on the analysis of any evidence that might have been collected, a report on the gun, the officer's gun – was it working right, was it serviced properly - from the labs that do any drug analysis or blood analysis and that. So any report, any document associated with this is in there. That's why it'll be about that tall.

**COMMISSIONER HUERTA** – Also, when you're looking into it, do you look into the training records for the involved officers, like last time they were on the range and what type of classes they may have had?

**LT. COLLOPY** – Yes. WE look at range qualifications. Depending on the tactic used, often times we'll go back, depending on how long the officers been on. Has he had in-service training that covered that very issue? Did he get it in the academy? That type of thing.

**COMMISSIONER HUERTA** – And that information will be in the report that we see?

**LT. COLLOPY** – Yes.

**CAPT. DANA** – the only information that won't be in the report will be generated as a result of this, will be recommendations from the Internal Affairs Department to the Chief with regard to changes that should occur or additional training that may be required, policy modifications, internal documents regarding what the Chief should do.

**CHAIRPERSON HOWE** – Any other questions? If not...go ahead.

**EXEC. DIR. WILLIAMS** – This report is different. You also, at some point in time, do a critical incident review, correct? And that's separate from this report...

**CAPT. DANA** – The critical incident review is something...actually, it's mandated, as well, by the stipulation agreement with the Department of Justice. There will be a couple of them. First time, it will happen, probably within a couple days, wherein the watch commander will get together with, and debrief other personnel with regard to how to handle one of these things better in the future. There will be a second critical review of the incident and that will be included with the Internal Affairs report.

**COMMISSIONER FLOYD** – In other words, we'll receive a copy of that second...

**CAPT. DANA** – You will get a copy of that. You know, what went wrong, what went right. But, you know, when I refer to "this officer needs specific training in a particular area," or someone...some supervisor failed to notify people correctly...what we should do about those things, will be a confidential report to the Chief.

**CHAIRPERSON HOWE** – Okay. Thank you very much, gentlemen. Now we'll move to Item 7, discuss the scope of the Community Police Review Commission's investigations into...

**COMMISSIONER FLOYD** – Excuse me... Could we back up? I was just reflecting on your answer, Captain. You say that the conclusions that you make, or the conclusions that are reached internally, that someone may have acted inappropriately or should have done something different, that you present to the Chief, will not be presented to us?

**CAPT. DANA** – What we'll present to you is what went wrong or right. If we feel that the supervisor didn't notify someone appropriately, that will be in the report. If we feel that an officer didn't qualify a sufficient number of times, that'll be in the report. What won't be given to you is what our recommendation is as to what the Chief should do about it. In other words...

**COMMISSIONER FLOYD** – i.e., discipline or some other corrective action?

**CAPT. DANA** – Right. Yeah, a lieutenant or a sergeant should be disciplined or a sergeant...or an officer needs to be sent to Officer Survival School or driving school or whatever may come up. The problems we'll give you. Our recommended solutions we'll hold back on.

**EXEC. DIR. WILLIAMS** – There's not a lot of difference, you know. You all don't get the Department's findings anyhow, or what their recommendation is or anything else, so it's to get a good fresh look and draw your own conclusions without any prompting from PD and all. So it's essentially the same thing.

**CAPT. DANA** – Yes.

**CHAIRPERSON HOWE** – Okay...

**LT. COLLOPY** – Don...I'm sorry, Bill.

**CHAIRPERSON HOWE** – Go ahead.

**LT. COLLOPY** – I'd like to...I meant to do this at the very beginning. I'm not sure if you've met her before...Ana Serrato is our secretary in Internal Affairs and she's the one that makes sense of all our



paperwork and keeps track of it for us. So I just wanted to make sure you all...put a name to a face if you ever get a chance to meet her.

**CHAIRPERSON HOWE** – Okay, thank you.

**COMMISSIONER HUERTA** – Bill, I just have one more comment or question. I wanted to make sure...you talked about the psychological review and the critical incident stress debriefing and PEER support. That information is not...we don't have access to that either, do we? I just want to make sure that's not part of what we should be looking at because that really, to me, is something that should be internal, between the officer and your department.

**LT. COLLOPY** – No. That remains confidential. The officer speaks to the doctor and the doctor may talk to Capt. Dana and personnel and training, but we don't...we don't get that information. What we do do, I didn't mention, is that any time the officer's involved in a shooting, we put them off on what we call Administrative Leave. I don't, but the captain, the employee's captain does and that can range from a day to two days to however much time is necessary based on the circumstances and what we hear with the captain and P & T hears back from the counseling team.

**COMMISSIONER HUERTA** – Let me just ask another thing, and this is more a personal issue than really, probably, public, but do you provide that counseling opportunity to families and significant others of the officer?

**CAPT. DANA** – On the night of the shooting, we will bring a professional counseling team to the Department. They will usually arrive six or eight hours later, because they won't be able to speak to officer's, involved parties, until the detectives can. They will counsel all personnel involved: the officer that shot, any officers that were backup. We will regularly, and frequently, have the dispatcher who took the call, or the telephone person that took the call, the dispatcher who dispatched it, people that are close, particularly to the involved person, and they'll all get a first, initial counseling that night. Those that would need additional counseling or additional assistance, will be afforded the opportunity to do so, at least twice automatically. Beyond that, it'll require authorization from the personnel commander. The families, wives, will...first time, automatic – they will be able to go in there and get counseling. Any continuing need for treatment, we will evaluate on a case-by-case basis. First time, automatic.

**CHAIRPERSON HOWE** – The City picks up the bill for that?

**CAPT. DANA** – Yes. We have a contract with the...with a counseling service out of San Bernardino, renew it annually, and it's part of the standard operating procedure. The counseling will happen the first night. Our fear is that someone may want to appear to be more hardened to life than what they like to admit, so we force the first visit, whether they want to go or not. Beyond that, it's between them and the counselor.

**COMMISSIONER EGSON** – Let me just ask you a question. How many times a month are officers required to qualify?

**CAPT. DANA** – Once a quarter, unless they're on probation, at which time it's once a month.

**COMMISSIONER EGSON** – Once a quarter?

**CAPT. DANA** – Yes. Once every three months for normal officers; once per month for a probationary officer, and frequency can be adjusted if an officer shows difficulty in achieving qualification - stress taking them too many times to qualify or they're unable to, we'll increase that. The most extreme that I've ever been aware of is where we took an officer from the field and assigned him, full-time, to the

range, so they don't come back out until they've demonstrated proficiency. Normally, we can do it on, you know, a couple times a month.

**COMMISSIONER EGSON** – Thank you.

**CHAIRPERSON HOWE** – Nothing else? Okay, thank you, gentlemen. Number 7, discuss the scope of the CPRC's investigations into officer-involved shootings. This particular item I would like our executive director to lead off the discussion in this.

**EXEC. DIR. WILLIAMS** – Thank you. As you realize, at some point in time, we're going to get these cases, and I think it would be helpful, for me, to get the Commission's feelings on how broad a scope we should be...we should be looking at. You know, some agencies are looking strictly at the point in time when the officer pulls the trigger and whether that was justified or not. Others may be looking at a broader scope as to what he ate for breakfast that morning or whatever, and I'm just trying to get some feel for where you want us to go with our part of the investigation as far as how deeply we should get into it and that sort of thing. I don't expect any firm decisions. I'm just trying to get a sense of where you're at, so when we do our thing we have a document that's not overly broad or too narrow.

**CHAIRPERSON HOWE** – Let me go around the table on this one. I'm going to ask Jack Brewer to give his response and then we'll go right down the line.

**VICE-CHAIR BREWER** – What is the city attorney's...they've reviewed the ordinance. What's their interpretation of the ordinance as far as what we're supposed to look at with reference to shootings?

**EXEC. DIR. WILLIAMS** – They've not given me anything. There's no scope involved. It's in there that we have the authority to look at these things and that's what I'm asking. I'm sure if we...it if goes real far off track, well, they'll say something, but I just don't get that sense in the conversations I've had with folks and things, and all of you all individually, or a number of you individually, not all of you. They don't give...and I haven't asked for it either, any kind of guidance in that area.

**VICE-CHAIR BREWER** – My feeling at this point, then, that we're mandated to look at the shooting incident. Anything beyond the shooting, unless there's a complaint filed, reference actions of somebody or something like that, would not fall under that same scope. That's my interpretation.

**CHAIRPERSON HOWE** – Okay. Shermella?

**COMMISSIONER EGSON** – After the lieutenant's presentation, I think it covers pretty broadly who's involved in an OIS, officer-involved shooting, from the city attorney all the way to the Internal Affairs aspect. I think there would be some overlapping on our part. Do we want to go beyond what they submit to us? Because what they submit to us would be the victim and the witnesses and the departments who have taken in the investigation. What would be left for us to do? Reinterview?

**EXEC. DIR. WILLIAMS** – Well, we're going to have...there's going to be probably some duplication, but that's our job. I mean, that's what we're supposed to do is check these things out. If Mrs. Jones said...if it's written that Mrs. Jones said "ABC," that is in fact what Mrs. Jones, the witness, did say was ABC. If these interviews are all tape-recorded, that's going to be a pretty quick process, relatively so. But, you know, going back over, if there are other questions, going back and asking these questions is part of the process. Yeah, duplication is kind of the...verification, yeah, I would call it verification as opposed to duplication.

**COMMISSIONER EGSON** – I think...with this shooting case that is getting ready to be presented to us within the next couple of weeks, I think that would be a starting point for us since we have not been involved in a case of this magnitude before, presented to us. Maybe it will give us a clue as to how far

we can go, where we should go. Right now, I couldn't speculate because I don't have anything in front of me to use as a guideline. Maybe this case will be used, could be used, as we dissect it, as a guideline of how far we want to go or should go or we're mandated to go.

**CHAIRPERSON HOWE** – Okay. Mike?

**COMMISSIONER GARDNER** – I think I'd like to see us pattern our review more along the lines of what the Department does in their own reviews, a little more on the broad side than limited to at the moment the trigger was pulled. What actions were taken leading up to the shooting, what did the witnesses have to say. I'm not interested in looking at whether the coroner does the autopsy properly. But I think, generally speaking, broader is probably more beneficial. I think our role is to both to help ensure that a complete investigation has been done and to make the community feel better – that, in fact, a complete investigation was done. Even if we turn up nothing different, I think it's incumbent on us to take a pretty broad look and invest some time in it.

**CHAIRPERSON HOWE** – Let me ask you this: do you think we ought to be called out to the scene right after the incident with an investigator, of course?

**COMMISSIONER GARDNER** – I wouldn't object to that. I think there could be some value to that. I don't think that you want nine commissioners trooping around, but I think, you know, one, there could be some benefit to that. That's an interesting question, and it's...I don't think the majority of us are trained to do that properly. It would certainly require additional training.

**CHAIRPERSON HOWE** – No. No. We would have to have an investigator that's under contract...

**COMMISSIONER GARDNER** – You bet. And I'm not sure that we would want a...the Commission's private investigator tromping around the scene without...you'd have to coordinate very carefully with the Police Department to do that because, you know, we obviously would not want to interfere with their investigation.

**CHAIRPERSON HOWE** – At the recent conference that we, the three of us, Jack and Don and I attended, in Denver, there was one agency there – I believe it was Knoxville, Tennessee – that their...the chairman of that commission was called, had to be at the scene of shootings, which we found very interesting. Okay, Gloria?

**COMMISSIONER HUERTA** – Well, I kind of have mixed emotions because we haven't done one of these and I'm not sure what we're getting ourselves into. And while I agree both with Mike and Shermella, I think that some of what we're looking at is not so much 'Did the Department do a good job at doing an investigation?' but what happened that led up to the shooting and were there things that could have been done differently to maybe have a different outcome. My focus from my real life is on education and the medical aspects, so I get real concerned about training issues – is there something we could do better so it didn't happen again? Is there something we neglected to do, either as a department or a commission so that these things don't happen the way that they're presented to us? It may be that we have to look more global. Instead of being very specific, we might have to look at 'what did the officer have for breakfast?' and how many hours has the officer been on and what else is going on in that neighborhood or in that family that caused those type of things to happen. I mean, I don't know what we're getting ourselves into until we actually look at this first case and say, "What happened? What are we supposed to do? Is there something we should do differently as a commission? Is there something the Department should do differently?" I don't think we're here to second-guess IA and the Police Department. Maybe we are, but that's not how I feel we are as a commission. I think we're here to safe-guard the rights of the citizens in the community and the police officers are part of that community, just like everybody else is a part of that community and we need to be unbiased and fair and open-minded and look at all aspects. And so I hope that's what we do. I

don't know if we should go to the scene. I have real concerns about preservation of evidence and getting in people's way and preventing things being done the right way because we're there and we're not trained to do that. So I don't know if that should be our role or not. It would be interesting and I'd be like Mike – I'd be available to go if somebody wanted to page me, sure, I'll go. But I don't know that that's what we should be doing. I don't know that it's not what we should be doing either.

**CHAIRPERSON HOWE** – Bill?

**COMMISSIONER FLOYD** – Thank you. I think I agree with Shermella in the sense that we haven't had a shooting case yet and I think we need to get...I tend to look at these investigations as a case-by-case approach in the sense that some cases may require more work on our part than others. And I suspect when we get this rather lengthy report, as it was referred to, several of us will have questions.

We'll have issues that we will want to explore. And I think that, at that point, we're in a better position to focus the investigator. I do think we have an obligation to investigate. In fact, I was looking at the ordinance and I note that, when you look at our powers and...powers, duties and functions, under C, it says we have the power, the duty and the function to receive, and in our discretion, review and investigate through the Executive Director, complaints that are filed against police officers. But if you look at Section D, it says to review and investigate the death of any individual arising out of or in connection with actions of a sworn police officer regardless of whether a complaint regarding such death has been filed. So, it doesn't have that language about discretion. So I...maybe the City Attorney has a different view, but I view the ordinance as mandating us to do an investigation, but the scope of that investigation really can't be determined in any given case until we get enough information to decide what we want to look into. As far as going to the scene, I'm inclined to think that...first of all, I agree with the comment that all nine of us shouldn't show up. I have some reservations about whether anyone should show up, but it seems to me, if we're going to go that route, it would be the Executive Director, who is our professional advisor, who would show up. And Don, you're shaking your head.

**EXEC. DIR. WILLIAMS** – You know, I was on-call when I retired and...

**COMMISSIONER FLOYD** – You know, some of you are ex-law enforcement and you probably have a much better idea of what would be done at the scene than someone like myself, but I just think that at that point we're possible compromising the crime scene. We're possible interfering with the gathering of evidence and I'm not inclined to go there, quite frankly.

**CHAIRPERSON HOWE** – Jack has a comment.

**VICE-CHAIR BREWER** – Well, a couple things. I totally agree with that, that we have no business being at the crime scene. Everything else said, how can we look at it later and have an independent review and determination if we've been there and already have preconceived ideas? And secondly, as you just said, and what I originally said, is that we should investigate up through the incident. What I was getting at, that we shouldn't go beyond without a complaint is if there's...I've heard some rumors about relatives being not treated properly later on in the day or notified or things like that. I think, to that point, that that should something that, if there's a complaint made, we can look at, but I don't think it should be part of the shooting itself.

**COMMISSIONER FLOYD** – Yeah, I agree with that. I think that if – and I'd be the first to say that I think everyone needs to be sensitive in these types of case; they're tragic for all involved – but if somebody feels that the notification, for example, to the family was not appropriate, there's some other concern in that regard, I think somebody can file a complaint and we can address it that way. I think, if I were going to draw a scope or extremes of an investigation, I'd tend to go in Gloria's direction, that you'd want to look at the training. Was there something in the officer's background that might have suggested that this was something that could happen? And that assumes that there's some

wrongdoing found. I think you're going to look at many of these and conclude that there was no wrongdoing. I think that it's important that we go into these investigations with an open mind and that the investigation be fair and unbiased. But I don't think we can really say how far we're going to go in either direction until we get the facts before us and take a look at what we think is the appropriate scope.

**VICE-CHAIR BREWER** – Well, the information having to do with training and all that should be part of this package that we receive anyway.

**EXEC. DIR. WILLIAMS** – I got my answer, I think. We'll just...we'll get the package, we'll look at it and then, if there's additional that you think we need to do – and we'll do some checking where we think checking needs to be...these things...there always are. You can have 15 people go through it. When you've got something this big, there's always one question or maybe something that's not...needs to be looked into for whatever reason and... But I think double-checking, just making sure it's done correctly and then if we have additional questions, you know, then we can explore those additional questions. Maybe that's...on a case-by-case basis is not a bad way to go either. As far as the idea of going to the scene, I'd like to throw a wet towel all over that. I've been to those things. As Lt. Collopy said, they're chaotic. They don't need anybody else tromping through there. They've got enough people running through there who think they know what they're doing and all. I think if that were important, it would have been placed in there and since it's not... That's the first instance I've ever heard that - the people in Knoxville going – that was the first time I've ever heard a civilian, anybody from a civilian commission going to something like that. I don't think it'd be especially productive. I don't know how we'd do. I think our job is to see, to make sure it's done properly and then if we find a loose end, we can follow up on that and everything, of course, but I don't see us going out, you know, making these scenes and everything, aside from the personal aspect. I really don't want to go back on-call again.

**CHAIRPERSON HOWE** – Bob?

**COMMISSIONER GARCIA** – I'd like to ditto what everyone else has said, including Don, but if additional information is requested by us, for us to be able to have that on hand, if we need legal assistance from the City Attorney or, if needed, an independent investigation to assist us also. So, any means that we may have to follow through with it, I think it would be the best for us.

**CHAIRPERSON HOWE** – Okay. My feelings are that... I don't think we should be going out to the scene right away. That's why we have the authority to hire an investigator. If there's something that appears to be suspicious or wasn't done right or there's complaints or something like that, then of course, we should get an investigator out there as soon as possible, but not at the time they're still investigating the crime scene. And looking at my colleagues here, Jack and Shermella, and even throw Don in there, between the four of us, I added up about 100 years experience in law enforcement, and I think we've had enough. So I wouldn't want to go out to the crime scene.

Alright, any other comments? We have any other comments? We have a couple of audience participants here. I'd like to call up Chani Beeman to address Item 7.

**Chani Beeman**

I hope the public comments will still have some input into your thinking on this case because I am disturbed by some of the comments that I did hear expressed by some of the Commission members. I think one of the reasons I wanted to stand up here is to reemphasize that independence is key to the success of this commission. And I've stood up here many, many times – at least once a month, I'm sure – and emphasized that point. And also asking you to reflect on the focus that this commission is supposed to have. This commission was established because the community said, "We want input

into this process, into the complaint process and, specifically, officer-involved shootings.” Those are the critical aspects of the work that you do, fortunately not as often as standard complaints. But, unfortunately, this community has seen quite a bit of officer-involved shootings. Just in your tenure we’ve had two, and that’s two too many already.

The review process isn’t necessarily discipline. I couldn’t agree with Commissioner Huerta better that it’s to look at our policies and procedures; it’s to look at training opportunities. I think people get nervous about this idea that it’s going to be an exercise in finger-pointing. It doesn’t have to be that way and I think some of you are even slipping into that belief that, if you find fault or if you find a mistake in an officer-involved shooting, that somehow we’re going to chase down that police officer and exercise a great deal of discipline. No. We want to prevent our citizens from being shot and we want to prevent our officers from being shot and any information that we can uncover that allows that, that prevents people from being shot, is what the key is in this.

Community perspective is important. We just saw a whole outline about the layers of investigation, the need to have a variety of perspectives, all objective in their own way, but also acknowledging that each layer has a perspective. And when I hear people talk about, ‘Well, no, we’ve got to stand back, you know, let law enforcement do their job,’ you’re releasing, you’re not acknowledging that the community has a perspective that should also be part of this process. And it should be part of the process early on, not six months after the incident, which is what it looks like’s going to happen in the Phaisouphanh shooting. It should have been sooner. I don’t want to get into a debate about whether commissioners or investigators should be at the scene, but for cryin’ out loud, there should be more input prior to six months of this investigation, and law enforcement has already acknowledged the need to have these layers because they’ve already got it built into their process. They also acknowledge that there’s...even with those layers, each layer has a bias and it’s important that they work compatibly. Don’t loose the community layer in that process. I am confused, and if I’m not confused, then I’m concerned about the presentation that talked about tactics review and that part of what they look at is what’s reasonable in the police community. Okay. Perhaps that’s one part of the process. But what’s reasonable in our community, our community, regardless of whether it’s acceptable in Los Angeles or New York or some other police community? What’s acceptable in our community? This commission’s role is to provide that and I want that very much to be part of this process.

Ideally, the CPRC offers a view into the situation that’s not influenced by law enforcement, and I want to conclude by asking you to answer a question as honestly as you can, and that is, how much of your position on this question is influenced by your personal experience as law enforcement officers?

**CHAIRPERSON HOWE** – Thank you, Ms. Beeman. Someone want to respond to her?

**COMMISSIONER HUERTA** – I would like to respond to it. I’m not a law enforcement officer and have no law enforcement background. When we go in behind closed doors, they leave their law enforcement outside the door. We go in with some of our own prejudices and our own backgrounds, of course, but I cannot remember one discussion when we have asked anyone who’s had a law enforcement background, ‘What would you have done if you were in this situation as a police officer?’ I think we really try hard to represent the community and think what would we want to happen if it were one of our family members and from...speaking on behalf of my colleagues, I think they actually are probably more fair than I am many times in trying to look at the perspective of the individual who has filed the complaint or the families that have filed the complaint. So I really think that the law enforcement background...people have a misperception about these commissioners in that room.

**COMMISSIONER EGSON** – I have problems with definition of ‘reasonable’ in as it relates to the police and as it relates to the community. I hear the word ‘reasonable’ can be both...it can work for you or against you. I don’t know...reasonable from the community’s point of view can be awfully subjective,

you know? If we come up with a reasonable decision on our part, is that going to be perceived as objective or subjective from the community? When the community demands something, is it going to appear to us to be reasonable, subjectively or objectively? And so I see that little...I feel that little tension between what 'reasonable' means, policy-wise or community. So I don't know if a reasonable, or any decision that we make regarding a particular officer-involved shooting is going to be accepted as being reasonable by the community. And I don't know if there is going to be meeting of the minds since you have, or the community has their preconceived notions about the three of us sitting up here with law enforcement backgrounds.

**CHAIRPERSON HOWE** – Jack?

**VICE-CHAIR BREWER** – One comment you made about...you feel the Commission thinks that they have to look at things and have disciplinary action and what have you. I think we've already shown that's not the case at all, where we've made policy recommendations and that type of thing instead of just going after somebody whether they did or did not commit a violation. That's why we make the policy recommendations, hoping to improve things.

**CHAIRPERSON HOWE** – Mr. Garcia, you haven't filled out a form, but I'll let you speak anyway.

**Art Garcia**

Thank you, Mr. Howe. I actually wasn't planning on to speak on this item, otherwise I would have added Item #7 to the form I filled out previously.

I agree with most of what Ms. Beeman says, not all, but most of what she stated. And you're jobs...it's very difficult, what you're doing. This is the initial phase, process, if you will, into representing the community into looking into police actions and to, I think, looking into what's fair and equitable and what's right. The community has a lot at stake here and I believe that all of you are doing your best in an unbiased manner. I do have some concerns, though, about the length... As Ms. Beeman indicated, the six months or so before you start taking action into doing an investigation, independent investigation, which Mr. Floyd correctly stated that that's part of the charter, part of your requirements to investigate a shooting. That's my concern, is that it's taking so long and the perception that the community may have as to it taking this long and especially the family members. They want some sort of resolution to this incident apart from what the Police Department is going to come up with. So I guess what I'm saying is that I think this is a very, very important job that you have before you and the community is watching; the media is watching how you handle this first investigation. So again, my suggestion is that if there's anyway we can get into it sooner, start the process sooner as far as an independent investigation, maybe co-jointly with the RPD. That might be the way to go. But taking this long to get into it, it's no fault of yours, but the process takes this long to get to this point, the community may feel that that's unacceptable and may even question...you know, foot-dragging or whatever else they might throw out there. I believe that you're doing good work and I believe you're on the right track, and just... All eyes are on you, so I just wish you good luck.

**CHAIRPERSON HOWE** – We are going to take a long look at this and after we review this first case, and we certainly will be looking at this. Any other comments?

**COMMISSIONER FLOYD** – Yes, I have one.

**CHAIRPERSON HOWE** – Go ahead, Bill.

**COMMISSIONER FLOYD** – Thank you. I think Mr. Garcia's point is well taken. We're new at this. I'm especially new. I'm the new kid on the block. I've only been at this for a couple of months. But I think one of the things that will come out of this first case is analysis of 'should we get involved sooner

than we have in this case?’ I think it’s fair to say, from what I’ve heard, that we were apprised of the shooting. We were told that a report would come to us and at some point then we would do our investigation. But I don’t know that we’re foreclosed from getting involved sooner than we have in this case and that’s, I think, an appropriate issue to look at as we evaluate this first case. With respect to Ms. Beeman’s comments, I don’t know that our discussion about the investigation forecloses doing some of the things that she’s suggesting. We not only have the obligation to investigate an officer-involved shooting, but we also have a number of other responsibilities and rights under the ordinance, and that includes the right to give advice to the Police Department and to the City Council, if we think that’s appropriate. So if we see something in our investigation that we think raises a community interest or we need to make a recommendation that serves the community interest, we can do that as well as investigate the case. So I don’t think those two issues are incompatible.

**CHAIRPERSON HOWE** – Okay. Don?

**EXEC. DIR. WILLIAMS** – I have...you know, frankly, I haven’t...Mr. Garcia, Ms. Beeman, and everyone, I haven’t found anything I could disagree with, with anybody, frankly. I think you’re all right and of course the trick is finding some way to get to the investigation quicker without biasing the investigation in order to be able to do our job and have community support and give the community confidence that we are truly independent and all like that. Yet we are...one of the other things is the monitoring of the Police Department, making sure that their investigation was done properly, fairly, etc., etc. So I don’t know. Like I say, I agree with everyone. At this point I just don’t have a...the magic pill to cure it all, you know, when should we jump in, what should we do, you know, do we call our investigator the first time we hear about it and get him on the next plane up here or have him start driving up here for the next morning to start our own parallel, third-track investigation to everybody else? I guess it’s possible, if you have enough budget for it and everything. But at some point, we’re waiting on everyone else to do these other tasks and everything, technical tasks and all that. So, you know, I agree this is our first one and maybe we’re not hitting a home run on everything we’re doing, but I think that as long as we give it a try and try to get it into something where we can manage it and, hopefully, we’ll satisfy enough people or at least go home, thinking, ‘Well, we did the best we could,’ and let the chips fall where they may.

**COMMISSIONER EGSON** – I just think we should still base our actions and what format or what we’re going to do as a commission, on this case. We could talk about it all night. But until we see what the work is that’s set before us in this case, we’re going to learn a lot, and so I just think we should wait and just do the first case.

**CHAIRPERSON HOWE** – Just like an infant, you know, we’re just crawling. And after we get through with this case, we’re going to be up and walking.

**CHAIRPERSON HOWE** – The gentleman who’s at the podium right now, would you identify yourself?

**James Ward**

My name’s Jim, James Ward. I’ve been appointed an alternate for this commission and in doing so, I’ve received most of the paperwork from the Commission since it’s inception. And what I see in reviewing the paperwork is there seems to be some confusion about whether or not this commission is a review commission or an investigative commission. And as far as I’m concerned, the two are not interchangeable and if you have an officer-involved shooting that you’re going to deal with five months after, the best you can do is review it. It is too late to investigate it. If you’re going to investigate, you have to be involved earlier in the process because the information...if you get the information from the Riverside Police Department and all the different agencies, then all you can do is review it and see if you...if there’s any discrepancies that you want to follow up on. But an investigation is something different. You cannot sit here and say that you’re an investigative committee and then abandon all the



tools of the investigation. If you're going to investigate, you've got to be involved in the determining, making the determination as to what happened. You know, someone says that we don't want to go out because we don't want to come back with preconceived ideas. Well, you know, the thing is, would you rather deal with your preconceived ideas or somebody else's preconceived ideas? So I think that one of the things that this commission needs to do is make a determination, where it will be clear to itself and it will be clear to the community as to whether or not we're going to be a review commission or we want to be an investigative commission. And the way it's set up now is, basically, it's set up as a review commission more than an investigative commission. It talks about investigation throughout the paperwork, but it talks about investigation on one hand then it removes all the means of investigating in another place in your policies & procedures. So you know it's right...handing you the authority with the one hand and taking it away with the other hand. So, you know, until that issue is resolved, you know, I don't...I think that we'll be going back and forth from now on. Thank you.

**COMMISSIONER EGSON** – Mr. Ward, it says on here: The City of Riverside Community Police Review Commission. We are a community police review...I don't see anything in here that says police investigative commission.

**MR. WARD** – Yeah, but throughout your policies and procedures and your by-laws, it mentions investigative responsibilities. It said that you...it didn't say that you are to review every officer-involved shooting, it said you're to investigate every officer-involved shooting. So this ? review and investigative – people are getting them confused. Are you going to review it or are you going to investigate it? And you can't investigate it if you don't get involved in it until five months after the fact.

**VICE-CHAIR BREWER** – I disagree with that.

**COMMISSIONER EGSON** – I do too.

**VICE-CHAIR BREWER** – We certainly can find things that...or possible witnesses that we want more answers from or that type of thing, five months down the line or six months down the line, that we can send our investigator out to. That's still part of the investigation.

**CHAIRPERSON HOWE** – Okay. Thank you, Mr. Ward.

**MR. WARD** – Thank you.

**CHAIRPERSON HOWE** - Mary Shelton, would you step up, please?

**Mary Shelton**

I firmly agree with Mr. Ward. I think all of you should be intimately familiar with your ordinance right now, where it says that you have the right to investigate officer-involved shootings. I don't think you have to put 'investigation' in the name of your commission to figure out what you're supposed to do. I mean, you've been in place six or...like almost a year and you're still grappling over this investigation vs. review thing. I mean, I think when you're getting to the point where you're bisecting the name of your committee, you're splitting hairs to try to avoid the issue that the ordinance states quite clearly, legal opinion from the City Attorney or not, that that is your role in terms of investigating the shootings of civilians by officers. And I think that needs to start from day one. Like it's already been said, you can't start investigating a shooting six months after it happens. For example, with the Tyisha Miller shooting - because often times there are two aspects of the shooting – with Tyisha Miller there was the shooting itself. But what also arose in that situation was the conduct of the officers after the shooting, conduct that went on, almost covered up - until two officers in the Department, whom we know who they are, because of all the trouble that they got into – you know, basically, revealed the information that there were officers who were supposed to be in a supervising position making racial

remarks, officers who were assigning other officers who had just emptied their guns into a car to go out and pick up the shell casings and process the evidence.

Now, I would like to think that if we had somebody from community input at the shooting, that perhaps some of these behavioral patterns that - hopefully the Tyisha Miller shooting was an isolated incident in terms of that type of unacceptable conduct – but I would like to think that if there was somebody from the community there, someone from this commission, that perhaps we wouldn't have to go down that road again and that's one of the reasons why, that I don't think has been discussed here, why I feel it is important to have community input from day one of a shooting. Because it's not just the shooting itself, it's how the shooting is investigated. I mean, we've got to go back and have a history lesson here about why you guys were created in the first place, because members of the community in the aftermath of the Tyisha Miller shooting had very little trust in their police department's ability to investigate its own conduct, from the most minor incidents all the way up to officer-involved shootings, largely because of the behavior that took place after the Tyisha Miller shooting. That's why you're here. That's why the Use of Force Panel...you know, one of their strongest recommendations was for us to form an independent civilian review. That's why we had a six-month panel of those members and members of the Human Relations Commission to study what form of civilian review we wanted. That's why you are all here. It's not just to sit there and rubber-stamp what Internal Affairs does, it's not just to review their officer-involved shooting investigations, it's to have an independent mind and independent voice for the community. And like it or not, I mean, you may have 1,000 years of law enforcement between you, and you may not want to see it any more, but that's something that you should have really sat down and thought about hard before you submitted an application to join this commission. Nobody said that this was going to be an easy job and I'm sure you know that already. I mean, I'm sure many of you think right now that it's probably a lot tougher than you thought, but this is your responsibility and this is what the community has entrusted in you to do. And that's the only thing I can think that you have to do, is just to do it. Thank you.

**CHAIRPERSON HOWE** – In response to the commissioners...the statement you made about the commissioners and the number of years in law enforcement, it has nothing to do with the number of years in law enforcement. It's that it's not our job to go out to the scene and investigate. We have the authority to hire someone to do that and that's what will be done.

Okay. Mr. Doug Leeper.

**Doug Leeper**

I don't think the microphone is on, but I'll try to speak up. A couple of things come to mind when we're talking about officer-involved shootings, how Commissioner Floyd, in reading the ordinance indicated that it was any deaths involving the Police Department. That includes accidents. That's going to include struggles to gain custody and I just feel that your decision, or your tentative decision, at least, to stay out, clear of the crime scene, bears the wisdom of Solomon, and I think you should stick to that. You do have professional people here to investigate those things. Their photographs and evidence are going to be made available to you. It's going to be the next best thing to being there without you being called out and to be trampling and going basically, I'm sorry, but I feel beyond your scope as a commission that reviews this. Do these officer-involved shootings...is this just on-duty shootings? Are these off-duty shootings? Those do occur. Often times it happens when an officer's on his way home or to various other destinations. Are you going to be called outside of this jurisdiction to look into that as well? Must a shooting be fatal for you to review it or is it going to be just if someone's injured, and that includes officers who are shot, or does someone have to be hit at all? If an officer, you know, fires a round, is that something you're going to be investigating, excuse me, reviewing? I've heard a lot about getting involved sooner, to review sooner. Until you have a finished product, what can you review? You can get involved, you can ask questions. But you're walking on the tightrope of objectivity. That's why you're here and your destination is truth. I don't that you should

allow yourselves to be swayed by the winds of popular public opinion, because if you are and you rush in to say, 'We need this now – quicker is better,' I think we'll fail, and I think we'll fail, and I think you all know that, and I appreciate your being here. Thank you.

**CHAIRPERSON HOWE** – Thank you. Okay, any other comments from the commissioners? Bill?

**COMMISSIONER FLOYD** – I just had a question. We've talked about using investigators and some reference to using attorneys and that type of thing. Do we, in fact, have a budget for that?

**EXEC. DIR. WILLIAMS** – Yes, we do.

**COMMISSIONER FLOYD** – And if so, what is it?

**EXEC. DIR. WILLIAMS** – Currently, it's in the neighborhood of about 40? About 40,000, something like that? Yeah. And Legal's about 10,000, something like that. So we've got ample budget to do that, if that's...you know, we can do it, maybe once. The City's been very good with us in the budget, you know? I've got no squawks. Now, as you all know, the State and everyone else is in a budget crunch and so what it is after, you know, as we prepare next year's budget, I don't know at this point. They're still trying to hammer that out. We haven't had our...we just started our budget process for next budget year. But this year we were fine. They treated us real well and so budget's not a problem.

**COMMISSIONER FLOYD** – Thank you.

**CHAIRPERSON HOWE** – Okay. We're ready to move on to Item No. 8 – Discuss the RPD response to CPRC Policy Recommendations. Don, do you want to lead off?

**EXEC. DIR. WILLIAMS** – This was put on at the request of several commissioners. We, as you are aware...we've had, I think, nine policy and procedure recommendations, and I believe there should be a copy on the back for those in the audience, and we received a response regarding those nine and I believe, off the top of my head, I believe five of them are in the approval process and one of them was rejected because of legal advice from the City Attorney's office, and the other three, I think, were rejected, basically without comment, by the Police Department. And so one of the commissioners asked that this be placed on the agenda so that we could discuss a - the policy recommendations and everything and their responses and all. I've had some conversations regarding the rejections and basically it was just felt that this something they thought, the Police Department thought they had a handle on without getting another policy modification or anything involved. And so I...if Capt. Dana's here, maybe he can explain a little more. I know there's a review process and it's quite lengthy and all that. I don't know if that adds anything into it, but...does that pretty much sum it up, Richard?

(unintelligible response)

**EXEC. DIR. WILLIAMS** – Well, we were just talking about, in general, the responses to the nine policy recommendations that the Commission has made so far. Five of them are in, apparently, the process, it looks like approval process – I don't know. I think they were in the...going to the Command Staff for their comments, I believe it was. One of them was rejected for legal advice...on legal advice from the City Attorney's office, and three of them were rejected, I guess, by the Chief of Police as being, for lack of a better term, unnecessary. Is that about accurate there?

**CAPT. DANA** – Those numbers sound real close. If you remind me which policies, I can probably identify which was which. The policies that are – when we refer to them as being "in progress," – even a minor change in a policy, requires that we get the policy and we write, somebody writes the change in. That's usually sent to the division that would be most impacted by the policy: investigations, traffic.

I think a couple of them were relative to traffic. We send those to the division most affected. That division writes the changes into the policy. It comes back into Personnel and Training and the first draft is distributed to every division commander. Every division commander then reviews it. Normally, that review will involve them sharing it with some of the key members of their staff that'll be impacted. They make suggested changes. The changes come back through P & T. They go back to the original author and either the suggested changes are again made or they're not made. If they're not made, that results in further discussion, sometimes lengthy, until finally we get a finished draft policy and that finished draft policy, we have to run that by the Attorney General's office to make sure that it's not going to affect anything within the stipulation agreement. If it does, we send it to them, and to date, one has never come back from them because they run it through their staff and a bunch of people there. We're really hoping that some of those come back relatively quickly. They're kind of important policies. Once all that is done, the policy is written in its final format. It's signed by the Chief and it's distributed and at that time we'll be sending it back over to the Commission. If something is of an emergency nature, that is that we have to effect the change right now and we can't wait this three to six months that it takes, the Chief will issue a General Order. He'll make the change – and the General Order, you know, it can go out the next day – it will remain in effect until the policy is changed. It's a long process and there's a lot of cooks in the kitchen.

**VICE-CHAIR BREWER** – Would it be too much to ask that on those policy recommendations that we make, that are declined, that we receive something back in written form as to why they were rejected?

**CAPT. DANA** – That's a question more appropriately addressed to Chief Leach.

**VICE-CHAIR BREWER** – Could the Executive Director possibly approach the Chief on that?

**CAPT. DANA** – Which policies are they?

**EXEC. DIR. WILLIAMS** – Well, let's see. Okay, there was...the first one was the policy prohibiting supervisors from investigating complaints where they are a witness. And that was rejected. There's a policy requiring calls relating to domestic violence...I think what it was, was we had a recommendation that when officers go to a domestic violence...or a child abuse or neglect scene, or when there's an accusation of abuse or neglect, that the officer, if he doesn't find any sign of that, that he write a report describing what he saw and why he came to the conclusion that there was no abuse or neglect. The rationale behind that, frankly, was that there had been a school administrator who had...was notified of a child abuse...in some other school district other than Riverside, and he didn't see anything and then at some point in time a few weeks later, apparently, there was some abuse noted or whatever and it came into a court situation and because he was a mandatory reporting person, he didn't report. I think he got indicted by the Grand Jury and we thought that might be a bad thing to have a police officer have happen to him if they saw something or didn't see anything and it came back two or three months...or weeks later that actually there was something. If they had a chance to write a report – this is what I saw, this is who I talked to, this is what I based my decision on – and then, at least, he has a way to cover himself, I would think, and we thought that was more of an officer protection type thing...

**CAPT. DANA** – I think what we can do – because I will be able to answer most of those questions, but I want to go through the Chief to do that – I will draft something for the Chief and have him ship it over to the Council...or ship it over to the Commission. Also, during the course of our meetings, if you give me some pre-notice about which policies you want to talk about, I can tell you where they are at any stage of the game, given an opportunity to do that because we do track them. At any point in time, I've got 20 or 30 policies going through the process and let me know which ones ahead of time. I'll bring with me what we have on the rough drafts, tell you where they are and what the hang-up is on the policy at any given moment. And I can do that regularly on a monthly basis, if you'd like.

**EXEC. DIR. WILLIAMS** – Okay. I appreciate it. Thanks. We'll see what the Commission wants to do and make that decision.

**CHAIRPERSON HOWE** – Okay. Any other discussion on this? If not, we'll move to Item No. 9 – Discuss and vote on the following recommendations to RPD policies and procedures. Basically, this is a modification of a current policy and procedure, 9.1, that deals with harmless errors, while not acceptable, are not treated in the discipline system unless they are persistent. Then the errors, as a group, will be used to show an officer's lack of competency. And, as I mentioned earlier, this one stemmed from a case where an officer put the wrong date in the report. The date of the report was a day sooner or later or something...it was off, and there might have been one other small error in the report, but it was nothing that really affected the report and it was corrected later, but however, the person that was making the complaint got a copy of the report, read it and didn't like what she or he read. So, we thought that this was simply a harmless error and that an officer shouldn't be penalized for something like this. Any comments?

**EXEC. DIR. WILLIAMS** – I think, just one thing to mention about that... As the policy is written now, there's no leeway. It says you have to be accurate and truthful and all this business and everything. There's really no leeway there where it's something that's not going to affect the case. If an officer continually does sloppy reporting, maybe they need to look at him from a performance standpoint and either retrain him or...take it out of the discipline system. I mean, for cryin' out loud, this is, you know... And I know you folks struggled with it - the same issue – when we dealt with that case and so I thought that would be something we might recommend, that Police Department take a different tack on them.

**COMMISSIONER GARDNER** – I think it's worth pointing out, Mr. Chairman, that there is a separate policy that is specific to intentionally falsifying a report, which is, obviously, a major problem. But something like this instance where somebody inadvertently writes down the wrong date that doesn't affect the investigation, the outcome, it's...they made a mistake – isn't that big a deal, or shouldn't be.

**CHAIRPERSON HOWE** – Okay. I'm...go ahead, Bill.

**COMMISSIONER FLOYD** – Thanks. It's not clear to me who decides if it's a harmless error.

**EXEC. DIR. WILLIAMS** – Well, that would be the Department. I mean, you have to...someone in charge over there would have to look at it and say, 'Well, this is a harmless error. It didn't affect the charge or not charging somebody, and it didn't affect the criminal case in any respect.' So that's something that they're going to have to decide, whether it's going to be a watch commander or whoever. I don't know. We kind of leave that flexibility to the Department. Obviously, if it's a situation where someone complains about it, we're going to have our bite of the apple also and look at it and we may agree or may not agree. That's...frankly, that happens with a lot of things, where we draw different conclusions looking at the same evidence.

**CHAIRPERSON HOWE** – Are there any other comments?

**COMMISSIONER FLOYD** – But if someone files a complaint, with this commission, and they file it based on the fact that the report, for example, was inaccurate, are we saying that we would not address that complaint, we would not see that complaint?

**EXEC. DIR. WILLIAMS** – No. No. We're just saying that if there's inaccurate information in the report, we'd look at it and basically, we're going to make the same subjective judgment that a lieutenant or a captain over in PD would say, 'Well, is it...was this an innocent error?' or was it something that's, you know, maybe it was an innocent error, all right, but it seriously affected the case, and this type of thing, materially affected the case, I guess, is what I'm saying. In this instance, case in point, the date

didn't make any difference whatsoever, but still you have to ding them for it. So, you know, we're saying, 'Let's...maybe that's not appropriate,' and that's something they need to...you know we'd certainly, if it were brought to our attention, we'd look at it as a complaint, but it gives some wiggle-room, some leeway there, that if we look at and say, 'Well, you know, that...anybody can make that mistake. It was no big deal and it didn't affect anything.' That's one thing, whereas, you know, if it's a mistake that affects something, obviously it's...especially if you're going to write something down where there's a material affect, you need to make sure you're accurate there. That's different. Even thought it may be a human error, there are little ones and there are big ones.

**COMMISSIONER FLOYD** – I guess where I'm finding some confusion is the Department has that discretion now. I mean, I'd be the first to admit, if somebody makes a very minor mistake on a report, they shouldn't necessarily be disciplined for that, whereas if they're making a lot of mistakes on reports and they're material or they just keep making them, then perhaps they should be disciplined at some point. But it seems to me the Department has that discretion now. We might make a finding that yes they did, in fact, make a mistake on a report and the Department will look at that and the record of the officer and say, 'Well yeah, they made a mistake, but it's not worthy of disciplinary action. It's be worthy of just calling the person in and saying, 'Look what happened here. Let's try to avoid this next time.' Something like that, so I'm not sure where the change in the policy really changes anything.

**VICE-CHAIR BREWER** – We just sustained a complaint only because the policy said that we had to, whereas if a policy change had been made, that particular complaint probably would not have been sustained.

**COMMISSIONER FLOYD** – Well, but the Police Department still has the discretion to decide...as I understand this, the purpose of this is that the officer not be disciplined for harmless errors. The Department has that discretion now. They can look at that finding that we make and say, 'Discipline is not in order in this case.'

**CHAIRPERSON HOWE** – Mike, you had a comment?

**COMMISSIONER GARDNER** – Yeah. Discipline in terms of putting a letter in somebody's file or giving them days off without pay, or even up to termination is...that's not in our purview and shouldn't be and that's a management decision for the Chief. I think what we were trying to address with this, or at least my thought was there's a certain stigma that goes with having a complaint sustained against an officer, and in the particular case that gave rise to this, we didn't feel that we had any choice but to sustain the complaint because of the way the policy is drafted. And our suggestion is to not put either the Department or the Commission in the position of having to sustain a complaint over a harmless error in it's...in and of itself. And we were looking for a way around that.

**CHAIRPERSON HOWE** – Okay, let me read the change, the recommendation, the policy recommendation, then we'll vote on it.

The Community Police Review Commission recommends that the RPD Policy & Procedure 9.1 be modified so that harmless errors, while not acceptable, are not treated in the discipline system unless they are persistent. Then the errors, as a group, will be used to show an officer's lack of competency.

Okay, is there a recommendation? Moved and seconded. (Commissioner Gardner made the motion, which was seconded by Commissioner Egson.) Any questions? Okay, all those in favor say aye (six ayes). Opposed, same sign (Commissioner Huerta voted against). Okay, it's carried.

Okay, that concludes the public portion of the meeting. We will adjourn and reconvene for the closed session, which will be held in another location.

**Closed Session – Case Reviews**

Pursuant to Government Code Section 54957, the Commissioners adjourned to Closed Session at 7:51 p.m. to review the following case(s) involving PUBLIC EMPLOYEE PERSONNEL MATTERS:

<u>CPRC CASE NO.</u>	<u>IA CASE NO.</u>
01-043	PC-01-082-023
01-073	PC-01-139-016
01-087	PC-01-163-059

The Commission adjourned at 8:50 p.m.

Respectfully submitted,

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PHOEBE SHERRON  
Administrative Clerk